

REMARKS

In the Official Action dated April 6, 2004, claims 22-23, 25-28 and 30 have been rejected under 35 U.S.C § 103 as allegedly unpatentable over Elliott *et. al.*, WO 00/50380 and Busch *et. al.*, WO 97/42190 or Urban, U.S. Patent No. 5,359,068.

This Response addresses each of the Examiner's rejections. Accordingly, the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

Claims 22-23, 25-28 and 30 have been rejected under 35 U.S.C § 103, as allegedly unpatentable over Elliott *et. al.*, WO 00/50380 and Busch *et. al.*, WO 97/42190 or Urban, U.S. Patent No. 5,359,068. The Applicant respectfully traverses.

Claim 22 has been amended to incorporate the elements of claim 26. Claim 26 has been cancelled, without prejudice. Specifically, the phrase "wherein the atypical antipsychotic agent, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg per day to about 1500 mg per day, and the antidepressant, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg day to about 1500 mg per day" was added to claim 22. No new matter has been added.

Elliot *et. al.* disclose methods of treating depression, anxiety disorders, and obsessive-compulsive disorders, in a mammal comprising administering to said mammal in need of such treatment SRI inhibitors such as [2-(3,4-Dichlorophenoxy)-5-fluorobenzyl]-methylamine. Although Elliot *et al.* disclose using SRI inhibitors to treat depression, anxiety disorders, and obsessive-compulsive disorders, Elliot *et. al.* do not disclose or suggest combining an atypical antipsychotic with an SRI antidepressant

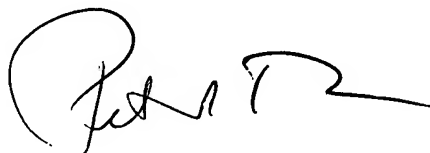
“wherein the atypical antipsychotic agent, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg per day to about 1500 mg per day, and the antidepressant, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg day to about 1500 mg per day.” Furthermore, Elliot *et. al.* do not motivate one skilled in the art to arrive at combining an atypical antipsychotic with an SRI antidepressant “wherein the atypical antipsychotic agent, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg per day to about 1500 mg per day, and the antidepressant, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg day to about 1500 mg per day.” Accordingly, the claimed invention is patentable over Elliot *et. al.*

Busch *et. al.* and Urban each disclose using ziprasidone to treat anxiety. However, neither Busch *et. al.* nor Urban disclose or suggest combining an atypical antipsychotic with an SRI antidepressant “wherein the atypical antipsychotic agent, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg per day to about 1500 mg per day, and the antidepressant, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg day to about 1500 mg per day.” Furthermore, neither Busch *et. al.* nor Urban motivate one skilled in the art to combine an SRI antidepressant and an atypical antipsychotic “wherein the atypical antipsychotic agent, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg per day to about 1500 mg per day, and the antidepressant, or pharmaceutically acceptable salt thereof, is administered in an amount from about 0.05 mg day to about 1500 mg per day.” Accordingly, the claimed invention

is patentable over Busch *et. al.* and Urban and withdrawal of the rejection of claims 22-23, 25-28 and 30 under 35 U.S.C. §103, is respectfully requested.

Thus, in view of the foregoing amendments and remarks, the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter I. Bernstein', with a stylized flourish at the end.

Peter I. Bernstein
Registration No. 43,497

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343

PIB/RLB:nis